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ATTEST

By Mecca Thompson on Feb 14, 2008

FOR THE UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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Feb 14, 2008

FILED
CLERK'S OFFICE

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: PEPSICO, INC., BOTTLED WATER
MARKETING AND SALES PRACTICES LITIGATION**

MDL No. 1903

TRANSFER ORDER

Before the entire Panel^{*}: Defendants PepsiCo, Inc., and the Pepsi Bottling Group, Inc. (collectively Pepsi) have moved, pursuant to 28 U.S.C. § 1407, to centralize this litigation in the Southern District of New York. This litigation currently consists of four actions, two pending in that district and one each in the Western District of Tennessee and the Southern District of Texas, as listed on Schedule A.¹ No responding party opposes the motion.

After considering the argument of counsel, we find that these four actions involve common questions of fact, and that centralization under Section 1407 in the Southern District of New York will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. All of these actions arise from allegations that Pepsi misled consumers of its Aquafina bottled water into believing that the water source of Aquafina was something different from and better than tap water. Centralization under Section 1407 will eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

We are persuaded that the Southern District of New York is an appropriate transferee district for pretrial proceedings in this litigation, because two of the four actions are already pending there and, by centralizing them before Judge Charles L. Brieant, we are assigning the litigation to a jurist who has the experience to steer it on a prudent course.

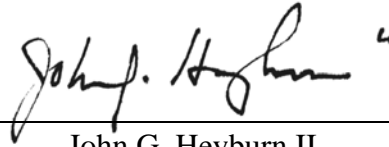
IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the two actions listed on Schedule A and pending outside the Southern District of New York are transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Charles L. Brieant for coordinated or consolidated pretrial proceedings with the actions pending in that district and listed on Schedule A.

^{*} Judge Motz took no part in the disposition of this matter.

¹ The Panel has been notified of one additional related action, which is pending in the Eastern District of California. That action and any other related actions will be treated as potential tag-along actions. *See* Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", positioned above a horizontal line.

John G. Heyburn II
Chairman

D. Lowell Jensen
Robert L. Miller, Jr.
David R. Hansen

J. Frederick Motz*
Kathryn H. Vratil
Anthony J. Scirica

**IN RE: PEPSICO, INC., BOTTLED WATER
MARKETING AND SALES PRACTICES LITIGATION**

MDL No. 1903

SCHEDULE A

Southern District of New York

Brian Fielman v. PepsiCo, Inc., et al., C.A. No. 7:07-6815
Carmen Collado v. PepsiCo, Inc., et al., C.A. No. 7:07-6874

Western District of Tennessee

Stacey Anderson, et al. v. PepsiCo, Inc., et al., C.A. No. 2:07-2514

Southern District of Texas

Christina Villa, et al. v. PepsiCo, Inc., et al., C.A. No. 4:07-3060

CLOSED, DOCSSENT, MDL, TRANSFERRED

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:07-cv-03060**

Villa et al v. Pepsico, Inc. et al **DO NOT DOCKET. CASE HAS BEEN TRANSFERRED OUT.**

Assigned to: Judge David Hittner

Case in other court: 157th Judicial District Court, Harris County, Texa, 07-46796

Cause: 28:1332 Diversity-Notice of Removal

Date Filed: 09/20/2007

Date Terminated: 10/31/2007

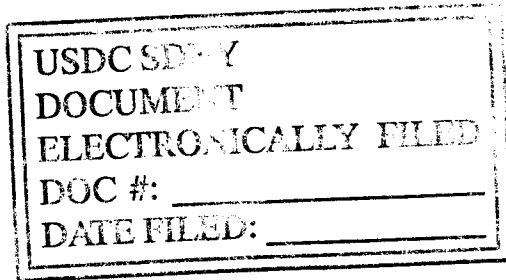
Jury Demand: Plaintiff

Nature of Suit: 370 Fraud or Truth-In-Lending

Jurisdiction: Diversity

Plaintiff

Christina Villa



represented by **Jonathan H Cox**

Attorney at Law

402 Main St

Ste 3 South

Houston, TX 77002

713-752-2300

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Email: jcox@coxlawfirm.net

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Plaintiff

Regina Kelly

represented by **Jonathan H Cox**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Plaintiff

Wanda Banks

represented by **Jonathan H Cox**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Plaintiff

Rosalind Basile

represented by **Jonathan H Cox**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Plaintiff

Emma Williams

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Plaintiff

Richard Banks

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Plaintiff

Kathy Jones Banks

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Plaintiff

Samantha Townsend

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Plaintiff

Carolyn Hayes

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Plaintiff

Dasha Alexander

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Plaintiff

Linda Walker

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Plaintiff

Mary Brewster

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ATTORNEY TO BE NOTICED

Plaintiff

Lawanda Holts

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Johnnie Byrd Byrd

represented by **Jonathan H Cox**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Pepsico, Inc.

represented by **Johnny W Carter**
Susman Godfrey LLP
1000 Louisiana
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Michael S. Lazaroff
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212-969-3645
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Coca Cola Company

TERMINATED: 10/22/2007

represented by **Kevin Dane Mohr**
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Houston, TX 77002
713-751-3200
Fax: 713-751-3290
LEAD ATTORNEY

L Joseph Loveland, Jr
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404-572-4783
Fax: 404-572-5142
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/20/2007	<u>1</u>	NOTICE OF REMOVAL from 157th Judicial District Court, Harris

		County, Texas, case number 2007-46796 (Filing fee \$ 350 receipt number 3053384) filed by Pepsico, Inc.. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4# <u>5</u> Exhibit 5)(Carter, Johnny) (Entered: 09/20/2007)
09/20/2007	<u>2</u>	<i>Civil Cover Sheet</i> by Pepsico, Inc., filed.(Carter, Johnny) (Entered: 09/20/2007)
09/20/2007	<u>3</u>	<i>Certificate of Notice of Removal</i> by Pepsico, Inc., filed.(Carter, Johnny) (Entered: 09/20/2007)
09/21/2007	<u>4</u>	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 11/14/2007 at 02:00 PM in Courtroom 702 before Magistrate Judge Stephen Smith. (Signed by Judge David Hittner) Parties notified.(smurdock,) (Entered: 09/21/2007)
09/21/2007	<u>5</u>	SUPPLEMENT by Pepsico, Inc., filed. (Attachments: # <u>1</u> Exhibit 1 - Pepsico Citation# <u>2</u> Exhibit 2 - Coca Cola Citation)(Carter, Johnny) (Entered: 09/21/2007)
09/21/2007	<u>6</u>	<i>Certificate of Supplemental Notice of Removal</i> by Pepsico, Inc., filed. (Carter, Johnny) (Entered: 09/21/2007)
09/25/2007	<u>7</u>	Agreed MOTION Stipulation for extension of time to answer by Pepsico, Inc., filed. Motion Docket Date 10/15/2007. (Carter, Johnny) (Entered: 09/25/2007)
09/26/2007	<u>8</u>	Stipulation and ORDER for Extension of Time to Answer, Move, or Otherwise Respond to Plaintiff's Original Complaint. Any answer must be filed on or before October 30, 2007.(Signed by Judge David Hittner) Parties notified.(ealexander,) (Entered: 09/27/2007)
09/27/2007	<u>9</u>	<i>NOTICE of the Motion to Consolidate and Transfer Filed Before the Judicial Panel On Multidistrict Litigation</i> by Pepsico, Inc., filed. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit C.1# <u>5</u> Exhibit C.2# <u>6</u> Exhibit D)(Carter, Johnny) (Entered: 09/27/2007)
10/08/2007	<u>10</u>	CERTIFICATE OF INTERESTED PARTIES by PepsiCo, Inc., filed. (Carter, Johnny) (Entered: 10/08/2007)
10/15/2007	<u>11</u>	CERTIFICATE OF INTERESTED PARTIES by The Coca Cola Company, filed.(Mohr, Kevin) (Entered: 10/15/2007)
10/19/2007	<u>12</u>	NOTICE of Voluntary Dismissal as to Coca Cola Company by all plaintiffs, filed. (ltrevino,) (Entered: 10/19/2007)
10/22/2007	<u>13</u>	ORDER that pursuant to the Stipulation of Voluntary Dismissal that Defendant Cocoa-Cola Co. is dismissed without prejudice.(Signed by Judge David Hittner) Parties notified.(ealexander,) (Entered: 10/22/2007)
10/22/2007		*** Party Coca Cola Company terminated. (ealexander,) (Entered: 10/22/2007)

10/25/2007	<u>14</u>	MOTION for Michael S. Lazaroff to Appear Pro Hac Vice by Pepsico, Inc., filed. Motion Docket Date 11/14/2007. (Carter, Johnny) (Entered: 10/25/2007)
10/25/2007	<u>15</u>	Unopposed MOTION to Stay <i>Proceedings Pending Determination on Multidistrict Coordination</i> by Pepsico, Inc., filed. Motion Docket Date 11/14/2007. (Attachments: # <u>1</u> Proposed Order)(Carter, Johnny) (Entered: 10/25/2007)
10/25/2007	<u>16</u>	MEMORANDUM of Law in Support of re: <u>15</u> Unopposed MOTION to Stay <i>Proceedings Pending Determination on Multidistrict Coordination</i> by Pepsico, Inc., filed. (Attachments: # <u>1</u> Appendix Lazaroff Declaration# <u>2</u> Exhibit 1-4 to Lazaroff Declaration# <u>3</u> Exhibit 5, Part 1 to Lazaroff Declaration# <u>4</u> Exhibit 5, Part 2 to Lazaroff Declaration# <u>5</u> Exhibit 6-7 to Lazaroff Declaration)(Carter, Johnny) (Entered: 10/25/2007)
10/26/2007	<u>17</u>	ORDER granting <u>14</u> Motion to Appear Pro Hac Vice on behalf of Michael S. Lazaroff.(Signed by Judge David Hittner) Parties notified. (ealexander,) (Entered: 10/26/2007)
10/26/2007	<u>18</u>	ORDER granting <u>15</u> Motion to Stay.(Signed by Judge David Hittner) Parties notified.(ealexander,) (Entered: 10/26/2007)
10/31/2007	<u>19</u>	ORDER that this case is administratively closed, Case terminated on October 31, 2007.(Signed by Judge David Hittner) Parties notified. (ealexander,) (Entered: 11/01/2007)
03/03/2008	<u>20</u>	TRANSFER ORDER (certified copy) transferring case to Southern District of New York to be included in MDL Docket No. 1903. Parties notified.(pcrawford,) (Entered: 03/04/2008)
03/04/2008		Interdistrict transfer to Southern District of New York. Certified copy of transfer order, certified docket sheet, and transfer letter will be sent., filed. (pcrawford,) (Entered: 03/04/2008)
03/04/2008	<u>21</u>	Document(s) Sent by FedEx to Southern District of New York; Tracking Number 8633 9898 4652 re: <u>20</u> Conditional Transfer Order re: Certified copies of Transfer Order and Case Docket, transfer letter, filed. (pcrawford,) Additional attachment(s) added on 3/4/2008 (pcrawford,). (Entered: 03/04/2008)

PACER Service Center			
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